

2 Ct
Proper

ORIGINAL

24
8/17/01
FILED
HARRISBURG, PA

AUG 16 2001

MARY E. D'ANDREA, Clerk
Per (JL)
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN RICHARD JAE, :
Petitioner, : No. 1:01-CV-0041
: :
v. : (Judge Rambo)
CORRECTIONS OFFICER LESTER, : (Magistrate Judge Smyser) ✓
: :
Respondent. : :

**MOTION FOR STAY OF PROCEEDINGS AND ENLARGEMENT OF TIME TO
RESPOND TO PETITIONER'S PETITION FOR WRIT OF MANDAMUS**

Respondent, by and through his attorney, Michael J. McGovern, Assistant Counsel, Pennsylvania Department of Corrections, hereby requests that the Court stay proceedings as to Petitioner's Writ of Mandamus and grant an enlargement of time to Respondent in which to file a Brief in Opposition to Petitioner's Petition for Writ of Mandamus, avering in support as follows:

1. On June 28, 2001, Petitioner filed a Petition for Writ of Mandamus and brief in support thereof asking the Court to order officials at the State Correctional Institution at Greene (SCI-Greene) to return all legal materials, court files and law books to Petitioner and to provide Petitioner with paper, carbon paper and two legal envelopes. Petitioner attached a Certificate of Service to his Petition and brief affirming he served Respondent.

2. Respondent never received the above referenced Petition for Writ of Mandamus or brief.
3. On August 6, 2001, your Court issued an Order directing Respondent to either file a brief in opposition to Petitioner's Petition or a statement indicating that they do not oppose the Petition, to be filed on or before August 14, 2001.
4. The Court's Order of August 6, 2001 was the first notice Respondent received of Petitioner's Petition.
5. Respondent does oppose Petitioner's Petition for Writ of Mandamus and will file a brief in opposition to said motion.

WHEREFORE, Respondent requests your Court to issue an order to stay all proceedings on Petitioner's Writ of Mandamus until such time as Petitioner properly serves Respondent and to enlarge the time for Respondent to respond to said Writ to comply with the Federal Rules of the Middle District, based on the date Petitioner effects service on the Respondent.

Respectfully submitted,
PA Department of Corrections,

By:


Michael J. McGovern
Assistant Counsel
Attorney I.D. No. 52802
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
717-731-0444

Dated: 08/16/01

CERTIFICATE OF SERVICE

I hereby certify that I have on this date served a copy of the below-referenced document(s) upon the person(s) and in the manner indicated below:

Service by first class mail, postage prepaid, addressed as follows:

John Richard Jae, BQ-3219
SCI-Greene/SMU
175 Progress Drive
Waynesburg, PA 15370

Corinne N. Driver
Corinne N. Driver
Clerk Typist II
PA Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444
Fax: (717) 975-2217

Dated: 8/16/01

Re: Motion for Stay of Proceedings and Enlargement of Time to Respond to
Petitioner's Petition for Writ of Mandamus
John Richard Jae v. Corrections Officer Lester, USDC-MD 1:01-CV-0041